

INTRODUCTION

Americans depend on the criminal justice system to maintain our safety and security. We expect it to be reliable and fair in addition to being effective at deterring crime and punishing offenders. It must also treat victims and their families with compassion and provide a sense of justice to all Americans.

Today, many of those goals are unmet, and at least in some quarters, the system is regarded with distrust and suspicion. Scores of exonerations have led to the realization that the system can — and does — convict the wrong people, allowing the true perpetrators to remain free to harm others. Our forensics laboratories, on which we rely to help identify valid suspects, are underfunded and lack standards and oversight. On both the state and federal levels, investigation and identification techniques need reform to ensure objectivity and accuracy. Racial discrimination pervades the system.

We incarcerate more people than any other country in the world, and policymakers regularly increase the number of crimes and the length of criminal sentences. We imprison children with increasing frequency, sometimes to serve the rest of their lives in confinement. Our prison system is filled with non-violent offenders for whom other responses would be both more effective and more just. Some of our prisons are not just overcrowded, they are bursting at their seams, causing unsafe conditions for inmates and guards.

Political actors are fearful of being called “soft on crime” and are reluctant to grant pardons, no matter how well deserved they might be. They refuse to provide adequate funds for lawyers to represent people accused of a crime. In our adversarial system, such neglect results in costly errors that force crime victims to relive traumatic events that they had hoped to put behind them. In addition, when we release offenders without support systems, and with significant restrictions related to continued punishment rather than protection of society, we prevent them from effectively and safely reentering society.

We have too often failed to treat victims with respect, to provide them with appropriate alternatives to the criminal justice system, and to commit to a system of restorative justice.

Individuals wrongly convicted of crimes are also victims. Existing laws to protect against convicting innocent people need revision. A national commission could take a necessary hard look at why the system is convicting and imprisoning the wrong people and letting the true perpetrators remain free.

Moreover, our federal courts are too often unavailable to rectify errors, further undermining the reliability of convictions. With 130 exonerations of death row inmates since the reinstatement of capital punishment in 1973, we must reexamine our safeguards to make sure that the innocent have avenues to appeal their wrongful convictions.

Due to the undeniable human costs and the overwhelming fiscal costs, Americans of all political stripes, especially professionals with experience in every aspect of the criminal justice system, recognize that the system is failing too many, costing too much, and helping too few. Consequently, law enforcement officials, prosecutors, defenders, judges, victim advocates, and other stakeholders are working together in support of essential systemic reforms that will enhance public confidence in what is currently a failing system.

Reform of the criminal justice system is a continuing conversation. This document is meant to be a starting place; when reviewing it, please keep in mind some basic principles that should be considered when contemplating any criminal justice reform. These principles include:

1. **Fairness and Accuracy** — The criminal justice system should treat individuals fairly by providing access to all safeguards and services afforded both by law and common sense. Such treatment includes:

- Providing to people charged with crimes the presumption of innocence, effective representation, and equal access to a fair day in court;
- Ensuring the appropriateness and accuracy of law enforcement policies and practices employed to investigate, charge and prosecute individuals; and
- Working towards a restorative justice system that treats victims with respect and compassion and is responsive to their needs.

2. **Elimination of Disparities** — Governments should eliminate policies that create racial and other improper disparities, which undermine the goal of equality and fairness under the law.

3. **Alternatives to Incarceration** — Incarceration should be reserved to punish the most serious crimes. Community placement and supervision that include a combination of sanctions and access to treatment and other services, especially for individuals who have an addiction and/or mental illness, have proven successful. Government should aggressively pursue these alternatives to help ensure more effective and just outcomes.

4. **Proportionate Punishment** — Sentencing laws should ensure that the punishment fits the crime and that judges have sufficient discretion to impose a sentence no greater than necessary to achieve the ends of justice.

5. **Incarceration, Rehabilitation and Reentry** — The system should provide rehabilitation to those leaving the prison system and facilitate their participation in society for a successful reentry. Terms of incarceration must be safe and provide access to services that prepare individuals for reentry. Such services include education, training, opportunities for spiritual support, contact with families, treatment for medical and behavioral health problems, and, upon release, access to housing and other essential services.

6. **Effectiveness** — All strategies and practices that the criminal justice system employs should meet evidence-based or, when possible, scientific standards of effectiveness. This will improve the effectiveness of law enforcement, investigation, prosecution, and punishment; increase the public faith and trust in the system by minimizing mistakes and improving results; and reduce costs by increasing accuracy and reducing recidivism.

7. **Cost** — More than one in every 100 adults in the U.S. is behind bars.¹ If the 2.3 million people behind bars were a city, it would be the fourth largest in the country.² The U.S. prison system costs taxpayers more than \$60 billion per year. Prisons and jails are filled with persons who are non-violent, many of whom have an untreated addiction, mental illness, or other disability.

Projections are that costs will continue to increase absent significant reforms. Some jurisdictions, such as Texas, have significantly increased investment in intervention, treatment and reentry services to reverse this trend of over-incarceration and to help individuals remain outside of the criminal justice system and live law-abiding lives in their communities.

At a time when the nation is facing its worst economic crisis since the Great Depression, it is essential to review the cost of the criminal justice system to all Americans. Such a review should not only account for the cost in terms of dollars and cents, but also in terms of human lives and capital, which are our nation's most valuable resource.

¹ *One in 100: Behind Bars in America 2008*. Pew Research Center for the People & the Press, January 2008.

² See BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 221944 PRISON INMATES AT MIDYEAR 2007 BULLETIN (June 2008), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/pim07.pdf>; BUREAU OF JUSTICE STATISTICS, U.S. DEP'T OF JUSTICE, PUBL'N NO. 221945 JAIL INMATES AT MIDYEAR 2007 BULLETIN (June 2008), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/jim07.pdf>.